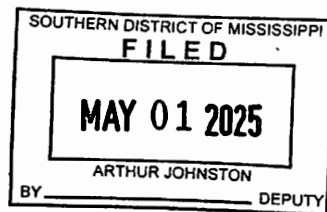


1983 · SOUTHERN

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi
Southern DivisionMAXIMO MALPICA
Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

MDOC & BURL CAIN
Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. 1:25cv128 HSO-BWR

(to be filled in by the Clerk's Office)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

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I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

MAXIMO MALPICA
247542 MDOC#
South Mississippi Correctional Institute
P.O. Box 1419
Leakesville MS 39451
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

BURL CAIN & MDOC
Commissioner of MDOC
U/K
Mississippi Dept of Corrections
P.O. Box 1419
Leakesville MS 39451
City State Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Shawn Hopson - Guard on Duty
Correctional Officer - Supervisor
U/K
Mississippi Dept of Corrections
P.O. Box 1419
Leakesville MS 39451
City State Zip Code

☒ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

DEPUTY WARDEN NIX
 DEPUTY WARDEN
 UTK
 S.M.C.I
 P.O. Box 1419
 LEAKESVILLE MS 39451
 City State Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City State Zip Code

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

UNCLEAN WORK ENVIRONMENT

CRUEL AND UNUSUAL PUNISHMENT Amendment 8
 U.S. Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

THE SUPERVISORS-PRISON
OFFICIALS ARE NOT TRAINED FOR MEDICAL EMERGENCIES.
MY BODY WAS BLACK & BLUE FROM INJURY
MAJOR BROWN IS WITNESS TO INJURY.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

I WAS MADE TO WORK IN AREA 3 KITCHEN AND I
FELL IN THE KITCHEN AND WAS INJURED. MY SLIP AND FALL
IS ON CAMERA. I DID RECEIVE MEDICAL TREATMENT
INCIDENT DATE WAS 11/17/2024 OR OR ABOUT
INJURED IN A ACTION AT LAW AND IN EQUITY
INMATE ERNESTO RODRIGUEZ INMATE - WITNESS TO ACCIDENT

C. What date and approximate time did the events giving rise to your claim(s) occur?

My Slip And fall OCCURRED ON OR ABOUT 11/17/2024
THE INCIDENT WAS ON CAMERA AS WELL

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I Slip And fell with
A TRAY IN my Arms AND my ARM AND BACK
Hit the floor HARD AND the ACCIDENT IS ON CAMERA
My Elbow swells up still from the Injury.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

MY ARM AND BACK WAS
Injured because of Slip And fall - My Elbow Hit
The floor And Elbow got Injured AS WELL

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like to be deported
back to my Home Country And I would like \$1500.00
A DAY FOR EVERYDAY I Suffered Since my Accident.
I did Receive medical Treatment After the Accident
I still Suffer from Injuries ON going.

"IN view of our holding in 1983 claim ARE best characterized
AS Personal Injury Action. *BUTLER V NATIONAL CTRY.*
RENAISSANCE 766 F.3d 1191, 1198 (9th circuit 2014)

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PATSY VS BOARD of Regents of FLA, 457 U.S. 496, 516 1982

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

WE conclude that Exhaustion of State Administrative Remedies should not be required AS A PREREQUISITE TO bring A ACTION

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

S. M. C. I

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes☐ No☐ Do not know

Deputy warden Nix notified And he Told ME TO JUST RETURN TO WORK AND HE would Handle.

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes☐ No☐ Do not know

No grievance Filled out - Warden Nix notified.

It doesn't cover compensation FOR INJURIES from slip & fall Accident In A unsafe work Environment dirty kitchen

If yes, which claim(s)?

EVEN than the Plaintiff IS A Illegal Immigrant "He" still has Equal protection under the Law AS A HUMAN BEING.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Notified the Deputy Warden Nix
To No Avail No Reports written

2. What did you claim in your grievance?

No grievance Done

3. What was the result, if any?

No Report was made By deputy
Warden Nix He just told me to Return to
WORK

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Couldn't Appeal the Deputy Warden Nix
Acted like it didn't happen NO grievance written
by me because I didn't want to be labeled
A Trouble Maker And moved to worse Area.

I fully believe that I WAS discriminated
Against because of being A Immigrant. Equal
Protection Clause...

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I wanted to file A Lawsuit because of the work conditions And poor Treatment from staff. And Lack of on going medical Treatment

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I Told MR. SHAWN HOPSON I would be filing A complaint I ALSO notified The deputy WARDEN NIX but He didn't make A Report Just told me to go back to work. SHAWN HOPSON Quit SMC I A Little While Later.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

MR. SHAWN HOPSON has Quit SMC I since my Accident In the kitchen. He Allowed A UNKOWN Hostile WORK Environment WARDEN NIX got moved TO A different AREA because of Sexual HARASSMENT of GUARD.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Equal Protection Clause to be free from Retaliation from prison staff After I Reported A Accident. No Reports were MADE by staff After the Accident slip & fall IN kitchen CAUSING Me to Injury self.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment? No

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

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